

**Editor's note: Reconsideration denied by order dated March 23, 1981**

OXY PETROLEUM, INC.

IBLA 81-25

Decided February 6, 1981

Appeal from decision of the Montana State Office, Bureau of Land Management, dismissing protest with respect to oil and gas leases (MTA-Sims-004).

Reversed and remanded.

1. Accounts: Payments--Oil and Gas Leases: Applications:  
Drawings--Oil and Gas Leases: Applications: Filing

A cashier's check is an acceptable form of remittance for payment of the filing fee accompanying a simultaneous oil and gas lease offer under 43 CFR 3112.2-2 (1980). A cashier's check is a draft drawn by a bank upon itself, issued by an authorized officer of a bank, and directed to another person. Where a check submitted as a filing fee appears on its face to be a valid cashier's check, a Bureau of Land Management decision refusing such a check will be reversed and the case remanded to BLM.

APPEARANCES: Dennis R. Lopez, for appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Oxy Petroleum, Inc., hereafter appellant, appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), dated September 12, 1980, dismissing its protest of BLM's rejection of oil and gas lease offers (MTA-Sims-004). 1/ BLM rejected the offer because it found the remittance to be unacceptable under 43 CFR 3112.2-2.

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1/ MTA-Sims-004

Oxy Petroleum, Inc.

<u>Parcels Appealed</u>	<u>Lease Numbers</u>	<u>Parcels Appealed</u>	<u>Lease Numbers</u>
MT- 8	M 48598	MT-73	M 48663
MT- 9	M 48599	MT-74	M 48664

Appellant filed drawing entry cards for parcels (see n.1) offered in the July 1980 simultaneous oil and gas lease drawing. A check drawn on the First National Bank of Denver, Colorado, for \$470 to cover the filing fee accompanied appellant's drawing entry cards. BLM returned the drawing entry cards and filing fee because it found the remittance to be unacceptable.

By letter of September 9, 1980, appellant protested BLM's action of returning the check. BLM dismissed the protest by a decision dated September 12, 1980, in which it was stated: "(Ref 43 CFR 3112.2-2) The filing fee shall be paid in U.S. currency, Post Office or bank money order, bank cashier's check or bank certified check." In its appeal appellant asserts that the cashier's check used as its remittance met the requirements of 43 CFR 3112.2-2. With the appeal appellant enclosed a copy of a letter from the First National Bank of Denver to BLM which reads as follows:

A number of customers of the First National Bank of Denver have advised us that our standard Bank Cashier's checks issued to the Bureau of Land Management for years was rejected by your office in connection with the Simultaneous Filings in Montana on BLM tracts from the period July 1, 1980, to July 22, 1980. As a result, our customers were denied the right to participate in those drawings for that month.

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fn. 1 (continued)

MT-56	M 48646	MT-80	M 48670
MT-57	M 48647	MT-81	M 48671
MT-58	M 48648	MT-82	M 48672
MT-59	M 48649	MT-83	M 48673
MT-60	M 48650	MT-84	M 38674
MT-61	M 48651	MT-85	M 48675
MT-62	M 48652	MT-86	M 48676
MT-63	M 48653	MT-89	M 48679
MT-64	M 48654	MT-104	M 48694
MT-65	M 48655	MT-105	M 48695
MT-66	M 48656	MT-106	M 48696
MT-67	M 48657	MT-107	M 48697
MT-68	M 48658	MT-108	M 48698
MT-69	M 48659	MT-109	M 48699
MT-70	M 48660	MT-110	M 48700
MT-71	M 48661	MT-134	M 48724
MT-72	M 48662		

My purpose in writing is to emphasize that the checks issued by First of Denver for its customers are cashier's checks, signed by this Bank's Cashier. We have been informed by legal counsel that these items clearly meet the legal definition of a cashier's check--namely, that a cashier's check is a check drawn by a bank upon itself. There is no legal requirement that a cashier's check bear the identifying label "cashier's check."

It is our understanding that several or all of our customers adversely impacted by the BLM's rejection of our cashier's checks are in the process of protesting the BLM's action. Should you desire any additional supporting documentation or information please contact me directly. First of Denver stands ready to be of any assistance to our impacted customers and the BLM in rectifying this situation.

Included in the record is a memorandum by the Utah State Office, BLM, dealing with acceptable forms of remittance for simultaneous oil and gas filing fees. The document contains the following definition of cashier's check:

2. CASHIER'S CHECKS: These are checks drawn on and issued by a bank, signed by its cashier, assistant cashier, or other authorized bank official. They may be annotated with terms such as "Cashier's Check," "Teller's Check" or "Official Check." As long as the check is drawn on the assets of the bank and signed by an authorized bank employee, it may be accepted as a Cashier's Check.

Appellant requests a new drawing to include the rejected drawing entry cards.

A copy of the check submitted by appellant shows that it is a check drawn by the First National Bank of Denver upon itself for \$470, signed by an authorized officer of the bank with the Bureau of Land Management as payee. The letter from the bank to BLM verifies that the check was a cashier's check. A cashier's check is an acceptable form of remittance under 43 CFR 3112.2-2. This regulation does not specify what constitutes a cashier's check. Appellant's check does meet the criteria for "cashier's check" set forth in Anderson, Uniform Commercial Code, § 3-104:18 (2d ed. 1971), which reads as follows:

§ 3-104:18 Cashier's check.

A cashier's check is a draft drawn by the bank upon itself which is accepted by the act of issuance. While the only apparent or basic or factual difference between a cashier's check and the ordinary check is that the ordinary check is drawn on one other than the drawer, while in a

cashier's check both the drawer and the drawee are the same, there are certain differences. A cashier's check is a primary obligation of the bank, rather than of the depositor as is the case in an ordinary check, and is an obligation to pay which ordinarily cannot be countermanded. It is issued by an authorized officer of a bank, directed to another person, evidencing the fact that the payee is authorized to demand and receive from the bank, upon presentation, the amount of money represented by the check.

[1] A check which appears on its face to be a valid cashier's check is an acceptable form of remittance under 43 CFR 3112.2-2 and a BLM decision refusing to accept such check will be reversed. This case is remanded to BLM for a reselection in accordance with the procedures set forth in 43 CFR 3112.3-2. See Ross L. Kinnaman, 48 IBLA 239 (1980).

Therefore, in accordance with the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and remanded to BLM.

Edward W. Stuebing

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Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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Bruce R. Harris  
Administrative Judge

